



(4310-G1-P)

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

DR.5A211.IA000414

Proposed Finding For Federal Acknowledgment of the Pamunkey Indian Tribe

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Proposed Finding.

SUMMARY: The Department of the Interior (Department) gives notice that the Assistant Secretary – Indian Affairs (AS-IA) proposes to determine that the petitioner known as the Pamunkey Indian Tribe (Petitioner #323), 331 Pocket Road, King William, VA 23086, c/o Mr. Kevin M. Brown, is an Indian tribe within the meaning of Federal law. This notice is based on a proposed finding (PF) that the petitioner satisfies the seven mandatory criteria for acknowledgment set forth in the applicable regulations, and thus, meets the requirements for a government-to-government relationship with the United States.

DATES: Comments on this PF are due on or before July 22, 2014. The petitioner then has until September 22, 2014 to respond to those comments. The Department must receive requests for a formal, on-the-record technical assistance meeting by February 20, 2014. See the SUPPLEMENTARY INFORMATION section of this notice for more information about these dates.

ADDRESSES: Comments on the PF and/or requests for a copy of the report of the summary evaluation of the evidence should be addressed to the Office of the Assistant Secretary – Indian Affairs, Attention: Office of Federal Acknowledgment, 1951 Constitution Avenue, N.W., Mail Stop 34B-SIB, Washington, DC 20240. Interested and informed parties who make submissions to the Assistant Secretary - Indian Affairs (AS-IA) must also provide copies of their comments to the petitioner at Pamunkey Indian Tribe, c/o Mr. Kevin M. Brown, 331 Pocket Road, King William, VA 23086.

FOR FURTHER INFORMATION CONTACT: R. Lee Fleming, Director, Office of Federal Acknowledgment, (202) 513-7650.

SUPPLEMENTARY INFORMATION: Under 25 CFR 83.10(h), the Department gives notice the AS-IA proposes to determine that the Pamunkey Indian Tribe is an Indian tribe within the meaning of Federal law. This notice is based on a determination that the petitioner satisfies all seven mandatory criteria set forth in part 83 of 25 CFR 83(a) through (g), and thus meets the requirements for a government-to-government relationship with the United States.

The Department publishes this notice in the exercise of authority that the Secretary of the Interior delegated to the AS-IA by 209 DM 8.

A group known as the Pamunkey Indian Tribe submitted a letter of intent to petition for Federal acknowledgment as an Indian tribe to the AS-IA. The Department received the letter of intent on June 29, 2009. The Department designated this group as Petitioner #323. The Pamunkey petitioner submitted its first documentation that included a narrative as well as some documents outlined in the petitioner's narrative. The Department received this material on October 14, 2010, and received an additional

petition submission on December 7, 2011. The group claimed to descend from the historical Pamunkey Indian tribe of the Commonwealth of Virginia. The historical Pamunkey Indian tribe occupied a land base in King William County, VA, formally defined during the Colonial Era in the 1600s and shown as “Indian Town” on a 1770 map, which still exists today as a state reservation in the same location.

The Department conducted an initial review of the petition, determined the petitioner was ready for consideration and placed the Pamunkey petitioner on the “ready, waiting for active consideration list” on January 3, 2012. In response to the petitioner’s request for expedited processing on July 5, 2011, the Department began a review for expedited processing on January 16, 2012, and recommended a waiver of the priority provisions of the regulations for the Pamunkey petitioner. On July 20, 2012, the Acting AS-IA approved the waiver under the May 23, 2008, directive (73 FR 30147) and moved the petitioner to the top of the ready list. Thereafter, OFA received three additional petition submissions from the Pamunkey petitioner on March 28, April 12, and July 11, 2012.

The Department placed the Pamunkey petitioner on active consideration for the PF on August 21, 2012, and received a submission of additional petitioner documents from the group during the 60 days following (on October 19, 2012), as allowed by the directive of March 31, 2005 (70 FR 16513). The Department will consider any additional material that it received after the submission deadline of October 21, 2012, for the final determination (FD), pursuant to that 2005 directive.

The acknowledgment process is based on the regulations at 25 CFR part 83. Under these regulations, the petitioner has the burden to present evidence that it meets the

seven mandatory criteria in section 83.7. The PF finds that the Pamunkey petitioner satisfies all seven mandatory criteria for acknowledgment: 83.7(a), 83.7(b), 83.7(c), 83.7(d), 83.7(e), 83.7(f), and 83.7(g).

If “substantial evidence” demonstrates the petitioner had “unambiguous” previous Federal acknowledgment as an Indian tribe, then the requirements of some of the acknowledgment criteria in section 83.7 are modified by the provisions of section 83.8(d). The Pamunkey petitioner has not claimed, and the Department has not located evidence, that the Federal Government took any action clearly premised on identification of the petitioner as a tribal political entity and recognition of a relationship between that entity and the United States. Therefore, the Department did not evaluate the petitioner under 25 CFR 83.8.

Criterion 83.7(a) requires that external observers have identified the petitioner as an American Indian entity on a substantially continuous basis since 1900. External observers consistently identified the petitioning group during these years as the “Pamunkey Indian Tribe,” or as a “tribe,” a “band,” a “group,” or a “settlement” of Pamunkey Indians. They usually associated the identified group with a state Indian reservation in Virginia. As such identifications of the petitioning group were made in almost all of the years since 1900, the petitioner meets criterion 83.7(a).

Criterion 83.7(b) requires that a predominant portion of the petitioning group has comprised a distinct community since historical times. The evidence in the record demonstrates that a predominant portion of the Pamunkey petitioner has maintained interaction and significant social relationships through history. From 1789 until 1899, the petitioner satisfies the requirements with a combination of evidence under criterion

83.7(b)(1). Such evidence includes the group's concern about maintaining the exclusivity of the settlement, its assertion of a collective Indian identity that lasts for more than 50 years, and members joining the Colosse Baptist Church as a group. Additional evidence includes the knowledge of people across kin groups, communication and interaction among members, and significant rates of marriage within the group. Combined, this evidence meets criterion 83.7(b) before 1900. From 1900 until the present, the petitioner satisfies the requirements via the "cross-over" provision of criterion 83.7(b)(2)(v), as the petitioner demonstrated criterion 83.7(c) using evidence described in 83.7(c)(2).

Criterion 83.7(c) requires that the petitioning group has maintained political influence over its members as an autonomous entity since historical times. The evidence for 1789 to 1899 shows the Pamunkey Indians had a functioning decision-making process. The Pamunkey group used this political process to represent its interests to outsiders, approved any actions taken by the trustees appointed by the state to supervise the tribe, had a code of laws that dealt with issues of importance to the group, such as legal residency on the reservation, and mobilized to protect its resources. For the period 1900 to the present, the group demonstrated control over residence rights on the reservation, imposition of sanctions to control individuals' behavior, and control and allocation of group resources. This evidence in the record for 1900 until the present is specified in 83.7(c)(2), which also satisfies criterion 83.7(b) for that time.

Criterion 83.7(d) requires that the petitioner provide a copy of its governing document including its membership criteria. The petitioner submitted a copy of its

governing document which includes its membership criteria. Therefore, the Pamunkey petitioner meets criterion 83.7(d).

Criterion 83.7(e) requires that the petitioner's members descend from a historical Indian tribe or from historical Indian tribes which combined and functioned as a single autonomous political entity. For this PF, the Department defines the historical Pamunkey Indian tribe as 81 Indian individuals named on any one of six King William County, Virginia, tax lists of personal property owners at Indian Town between 1787 and 1802; three Pamunkey petitions to the Virginia state legislature dated 1798, 1812, and 1836; and one Colosse Baptist Church record of "descendants of an Indian tribe on Indian Island" circa 1835. The October 18, 2012, Pamunkey membership list includes 203 living members, both adults and minors. The evidence in the record shows that 162 of these members, or 80 percent, demonstrated descent from members of the historical Pamunkey Indian tribe. Therefore, the Pamunkey petitioner meets criterion 83.7(e).

Criterion 83.7(f) requires that the petitioner's membership be composed principally of persons who are not members of another federally recognized Indian tribe. The Department found no evidence that any of the petitioner's current members are enrolled with any federally recognized Indian tribe. Therefore, the petitioner meets criterion 83.7(f).

Criterion 83.7(g) requires that the petitioner not be subject to congressional legislation that has terminated or forbidden the Federal relationship. The Department found no record that the petitioner was subject of legislation terminating or forbidding the Federal relationship. Therefore, the Pamunkey petitioner meets criterion 83.7(g).

Based on this PF, the Department proposes to acknowledge as an Indian tribe the petitioner known as the Pamunkey Indian Tribe.

A report summarizing the evidence, reasoning, and analyses that are the basis for the PF will be provided to the petitioner and interested parties, and is available to other parties upon written request as provided by 25 CFR 83.10(h) or available on the Department of the Interior's website at <http://www.doi.gov>. Requests for a copy of the summary evaluation of the evidence should be addressed to the Federal Government as instructed in the ADDRESSES section of this notice.

Publication of this notice of the PF in the Federal Register initiates a 180-day comment period during which the petitioner and interested and informed parties may submit arguments and evidence to support or rebut the evidence relied upon in the PF. Comments on the PF should be addressed to both the petitioner and Federal Government as required by 25 CFR 83.10(i) and as instructed in the ADDRESSES section of this notice by the date listed in the DATES section of this notice.

The regulations, 25 CFR 83.10(k), provide the petitioner a minimum of 60 days to respond to any submissions on the PF received from interested and informed parties during the comment period. After the expiration of the comment and response periods described above, the Department will consult with the petitioner concerning establishment of a schedule for preparation of the FD. The AS-IA will publish the FD of the petitioner's status in the Federal Register as provided in 25 CFR 83.10(l), at a time that is consistent with that schedule.

Dated: January 16, 2014.

Kevin K. Washburn
Assistant Secretary – Indian Affairs

[FR Doc. 2014-01349 Filed 01/22/2014 at 8:45 am; Publication Date: 01/23/2014]